

CHAPTER 2

ANIMALS

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ARTICLE 1

DEFINITIONS

Section

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2-1-1. Generally.

Any of the terms defined in subsequent sections of this Article has the meaning, when used in this Chapter, which is given the term in the definition of this Article, unless the context clearly indicates otherwise.

2-1-2. Abandon.

"Abandon" means the leaving of an animal by its owner or other person responsible for its care or custody without making effective provisions for its proper care. (Ord. 2915 § 1, 1985.)

2-1-2.1 At large.

An animal shall be deemed to be at large when it is off or away from the premises of its owner, possessor or keeper thereof and is neither in a receptacle, an enclosed vehicle, nor on a leash, cord or chain. (Ord. 3461, 1995.)

2-1-3. Animal.

"Animal" means a domesticated living creature (including a dog or cat) and a wild living creature previously captured.

2-1-4. Animal control officer.

"Animal control officer" shall mean any City Police Officer, or any other City employee designated by the City Manager to enforce this Article.

2-1-5. Cat.

The term "cat" means any animal of the species *Felis domesticus*. (Ord. 3184 § 6 (part), 1991.)

2-1-6. Cruel mistreatment.

"Cruel mistreatment" means every act or omission which causes, or unreasonably permits the continuation of, unnecessary or unjustified pain or suffering. (Ord. 2915 § 1, 1985.)

2-1-7. Cruel neglect.

"Cruel neglect" means failure to provide food, water, protection from the elements, opportunity to exercise, or other care normal, usual and proper for an animal's health and well-being. (Ord. 2915 § 1, 1985.)

2-1-8. Dog.

The term "dog" means any canine animal, male or female, sexed or neutered.

2-1-9. Domestic animal.

The term "domestic animal" means a dog, cat or other animal which is not a wild animal as defined in this Chapter. (Ord. 3184 § 6 (part), 1991.)

2-1-10. Impounding agency.

Any agency with whom the City has contracted for impounding services. The term also includes any employee of such agency.

2-1-11. Kennel, boarding kennel and pet shop.

The terms "kennel," "boarding kennel" and "pet shop" shall include any establishment for the raising, training, boarding or selling of domestic animals for any purpose. Provided, these terms shall not include the following:

(1) an enclosure, residence or establishment in which no more than three (3) domestic animals of at least five (5) months of age and their litters are kept;

(2) a pound operated by or under contract with the City: or

(3) a licensed veterinary hospital. (Ord. 3240 § 1, 1992.)

2-1-11.1. Mini-pig.

"Mini-pig" means an animal of the species *sus scrofa bittatus*, commonly known as the Vietnamese potbellied pig. An animal which is larger than one hundred pounds in weight and/or twenty-two inches in height is not a mini-pig. It is unlawful for any person to own, keep or harbor at any time more than one mini-pig

per residential or dwelling unit within the City. (Ord. 3461,1995.)

2-1-12. Own (an animal).

The term "own" means, unless otherwise specified, to possess, keep, harbor, or have control of, charge of, or custody of an animal. The term shall not apply to animals owned by other persons which are temporarily maintained on the premises of a veterinarian or kennel operator for a period of not more than thirty (30) days. (Ord. 3461, 1995.)

2-1-13. Owner (of an animal).

The term "owner" means any person possessing, keeping, harboring, or having charge or control of, or permitting any animal to habitually be or remain on, or be lodged or fed within, such person's house, yard, or premises. This term shall not apply to veterinarians or kennel operators temporarily maintaining on their premises animals owned by other persons for a period of not more than thirty (30) days. (Ord. 3461, 1995.)

2-1-13.1. Stray.

"Stray" means any domestic animal wandering at large or lost, escaped from its proper or intended place, with no identifying name tag, rabies tag, microchip, tattoo, ear tag, brand, or any other form of identification, and therefore, for which "No Owner" is known. (Ord. 3611 §1, 1999.)

2-1-14. Vaccination against rabies.

The term "vaccination against rabies" means vaccination of a dog by a veterinarian with a rabies vaccine licensed by the United States Department of Agriculture on the effective date of this Article.

2-1-15. Valid certificate of rabies vaccination.

The term "valid certificate of rabies vaccination" means a certificate issued by a veterinarian who has vaccinated a dog against rabies, showing:

- (1) the owner's name and address,
- (2) an adequate description of the dog, including but not limited to, such items as the dog's breed, sex, age, name, and distinctive markings,
- (3) the date of vaccination,
- (4) the rabies vaccination tag number,
- (5) the type of rabies vaccine administered, and
- (6) the manufacturer's serial number of the vaccine used.

Provided, a certificate of vaccination shall be valid: (a) for purpose of application for a dog license, only if the vaccination shown in the certificate was with a vaccine that will be effective during the whole term of the license, or (b) for purposes of avoiding impoundment of a dog, only if the

vaccination shown in the certificate was with a vaccine that still is effective at the time when the dog is inspected by an officer of the City having authority to enforce this Article.

2-1-16. Valid rabies vaccination tag.

The term "valid rabies vaccination tag" means a metal rabies vaccination tag issued by a veterinarian showing vaccination of a dog against rabies, if the vaccination was with a vaccine that still is effective at the time when the dog is inspected by an officer of the City having authority to enforce this Article.

2-1-17. Veterinarian.

The term "veterinarian" means a veterinarian duly licensed to practice veterinary medicine in the State of Nebraska.

2-1-18. Wild animal or birds; defined. For purposes of this Article, wild animals or birds shall mean: (1) any crows, game animals, fur-bearing animals, game birds, and upland game birds, as defined in section 37-101 of the Nebraska Statutes (R.R.S. 1943), as amended, to include any successor provision to this statute; or (2) any wolf, skunk, or any member of the families Felidae and Ursidae, except the species *Felis domesticus*; or (3) any venomous reptiles and snakes; or (4) any African rock pythons, anacondas, reticulated pythons or Burmese pythons; or (5) any member of the family crocodylidae or alligatoridae; or (6) any non-human members of the family primata; or (7) any nongame wildlife in need of conservation as determined by the Nebraska Game and Parks Commission; or (8) any wildlife determined to be an endangered or threatened species under the Federal Endangered Species Act of 1973 or any later act or amendment to the Act. (Ord. 3184 § 3 (part), 1991.)

ARTICLE 2

ANIMALS, FOWLS; GENERALLY

Section

<u>2-2-1</u>	<u>Animals; at large; picketing; herding, pasturing; prohibited; nuisance.</u>
<u>2-2-2</u>	<u>Animals; on curb space, sidewalks, lawns; leading, riding, driving; prohibited.</u>
<u>2-2-3</u>	<u>Cruelty to animals; prohibited.</u>
<u>2-2-4</u>	<u>Wild bird or animal; captivity prohibited.</u>
<u>2-2-5</u>	<u>Animal fighting; prohibited.</u>
<u>2-2-6</u>	<u>Agreements; noncompliance; unlawful.</u>
<u>2-2-7</u>	<u>Officers; pound; interference; prohibited.</u>
<u>2-2-8</u>	<u>Emergency destruction of animals.</u>

2-2-1. Animals; at large; picketing; herding; pasturing; prohibited; nuisance.

No person owning or having in charge any horse, goat, mule, ass, cattle, sheep, swine, chickens, ducks, geese, turkeys,

guinea fowls or other domestic fowl, shall permit the same to run at large within the City. No person owning or having in charge any horse, goat, mule, ass, cattle, sheep, or swine shall picket, herd or pasture or leave unattended the same anywhere within the City. Any animal or fowl found running at large within the City, or otherwise found in violation of this section, is hereby declared a nuisance and may be impounded. Provided, this section shall not be construed to prohibit the confining of livestock in an enclosure on private grounds for a period not to exceed thirty (30) days by a person or firm engaged in the business of buying, selling and transporting livestock, if the confinement occurs solely as an incident to such transportation and is within concrete pens the access to which is solely over concrete runways, and such pens and runways are washed and kept clean sufficiently to prevent all

avoidable accumulation of manure and refuse and all avoidable odors. Provided, further, this section shall not be construed to prohibit the picketing, herding or pasturing of animals on private grounds that on September 16, 1963, were being lawfully used for the picketing, herding or pasturing of animals of such character, unless such use shall have been or shall be abandoned for a period of twelve (12) months, in which event the use shall not be resumed. Provided further, this section shall not be applicable to mini-pigs, for which separate regulations are made. (Ord. 3461, 1995.)

2-2-2. Animals; on curb space, sidewalks, lawns; leading, riding, driving; prohibited.

It is hereby declared unlawful for any person to lead, ride or drive any horse, goat, mule, ass, cattle, sheep, or swine along, upon or over any curb space, sidewalk or lawn not his or her own in the City, or to suffer any livestock of any kind owned by him or her under his or her control to go upon any such curb space, sidewalk or lawn. Provided, this section shall not be applicable to mini-pigs, for which separate regulations are made. (Ord. 3461, 1995.)

2-2-3. Cruelty to animals; prohibited.

It shall be unlawful for any person to commit cruelty to animals. A person commits cruelty to animals if, except as otherwise authorized by law, he intentionally or recklessly:

- (1) subjects any animal to cruel mistreatment,
- (2) subjects any animal in his care or custody to cruel neglect or abandons such an animal, or
- (3) kills or injures any animal owned by or in the care or custody of another person. (Ord. 2715 § 1, 1982.)

Cruelty to animals is a Class I violation.

2-2-4. Wild bird or animal; captivity prohibited.

(1) No person shall keep in captivity within the City any wild animals or birds. Provided, the following persons are exempt from this section:

- (a) any city, state or federal zoo, park, refuge, or wildlife area;
- (b) any bona fide circus or animal exhibit displayed to the public on a temporary basis;
- (c) a person possessing or having custody of a sick or injured wild animal or bird solely for the purpose of transporting the animal to a licensed veterinarian for care, or to an animal shelter, or to a zoo, or to a state, federal, or local government official with the authority to handle the animal or bird;
- (d) licensed veterinarians and incorporated animal or bird shelters caring for injured or sick wild animals or birds supplying emergency temporary shelter and care;

(e) any "research facility" within the meaning of section 2(e) of the Federal Animal Welfare Act, 7 U.S.C. section 2132(e), or any amendment or successor provision, licensed by the Secretary of the United States Department of Agriculture pursuant to that Act;

(f) the Nebraska Game and Parks Commission and any agent or official of that Department acting in his or her official capacity;

(g) any agency or official of the United States government acting in his or her official capacity;

(h) state colleges and universities or any other agency of the state working with wildlife;

(i) a wildlife rehabilitator who holds state and federal permits;

(j) any person legally holding in captivity any wild bird or animal within the City as of the effective date of this ordinance.

(2) Any wild animal or bird found within the City limits in violation of this section is hereby declared a nuisance and may be impounded.

(3) Violation of this section is a Class I violation. (Ord. 3184 § 3 (part), 1991.)

2-2-5. Animal fighting; prohibited.

It shall be unlawful for any person or persons within the City to set dogs, other animals, or fowls to fighting by agreement, or otherwise, or in any manner to urge forward or encourage the same. (Ord. 1935 § 1 (part), 1972: Ord. 1116 § 2-218.)

2-2-6. Agreements; noncompliance; unlawful.

It shall be unlawful for any person wilfully or negligently to fail to comply, in whole or in part, with the terms of any written agreement with the City which the person shall have signed in accordance with the provisions of this Chapter. (Ord. 1935 § 1 (part), 1972: Ord. 1116 § 2-220.01.)

2-2-7. Officers; impounded animal; interference; prohibited.

It shall be unlawful for any person to interfere with the performance of the official duties of officers authorized to enforce this Chapter, or for any unauthorized person to release, remove or injure, or attempt to release, remove or injure any animal which has been impounded, or to attempt to do so. (Ord. 1935 § 1 (part), 1972: Ord. 1116 § 2-228.)

2-2-8. Emergency destruction of animal.

(1) Any animal which is found at large in the city and is behaving in such a manner as to constitute an immediate threat to

the safety of a human being may be immediately destroyed by an animal control officer.

(2) Any animal which is found at large in the city and is so sick or injured that, in the judgment of an animal control officer, human compassion requires that the suffering be promptly ended, may be destroyed by an animal control officer. Before such animal is destroyed, the animal control officer shall make a reasonable effort to identify and notify the owner of the animal.

(3) The destruction of an animal pursuant to this section shall be accomplished in such a manner as to cause the animal a minimum of pain and suffering. Prudent use of firearms to accomplish the destruction of an animal pursuant to the authority of this section shall not be considered a violation of the ordinances of the city. (Ord. 3522 §1, 1997.)

ARTICLE 3

DOMESTIC ANIMALS

(a) LICENSES

Section

<u>2-3-1</u>	<u>License; license tax; vaccination; required; exceptions.</u>
<u>2-3-2</u>	<u>Applications, requests, filing; taxes, fees, payment; remittance; licenses, issuance; reports.</u>
<u>2-3-3</u>	<u>Same; license tax.</u>
<u>2-3-4</u>	<u>License, vaccination tags; attaching.</u>
<u>2-3-5</u>	<u>Same; loss; replacement.</u>
2-3-6 to	Reserved.
2-3-8	

(b) GENERAL PROVISIONS

<u>2-3-9</u>	<u>Dogs and mini-pigs; at large; prohibited.</u>
<u>2-3-10</u>	<u>Dogs; cats; mini-pigs; nuisance; when; impoundment.</u>
<u>2-3-11</u>	<u>Domestic animals, noise, sanitary dispositions of feces.</u>
<u>2-3-12</u>	<u>Cats; regulations; generally.</u>
<u>2-3-13</u>	<u>Mini-pigs; spaying or neutering.</u>
<u>2-3-14</u>	<u>Mini-pigs; dangerous; other provisions applicable.</u>

2-3-1. License; license tax; vaccination; required; exceptions.

It shall be unlawful for any person to own in the City a mini-pig that is seven (7) months of age or older, or a dog or cat that is four (4) months of age or older without: (1) having procured a license therefor and paid a license tax thereon as provided in this Chapter, and (2) in the case of a dog, having procured vaccination of the dog against rabies as provided in this Chapter, and (3) in the case of a mini-pig, having procured

the spaying or neutering of the animal. Provided, the provisions of this section shall not apply to any animal owned by a person temporarily remaining within the State of Nebraska for less than thirty (30) days, to any dog brought into the State of Nebraska for field trial or show purposes, to any dog brought into the State for hunting purposes for a period of less than thirty (30) days, or to animals assigned to a research institution or similar facility. (Ord. 3567 § 1, 1997).

2-3-2. Applications, requests, filing; taxes, fees, payment; remittance; licenses, issuance; reports.

(1) All applications for an animal license shall be made at the office of the City Clerk and shall be accompanied by a valid certificate that the requirements of Section 2-3-1 have been met. All license taxes and fees payable under this Chapter shall be paid to the City Clerk, unless the City shall have contracted with a private agency to render such services for and on behalf of the City. In the latter event, all such applications and requests shall be made, and all such taxes and fees shall be paid, to such agency, acting for and on behalf of the City; and the agency may issue such licenses, using forms supplied by the City Clerk, in the name and on behalf of the City. Upon issuance of the license, the applicant shall be given a receipt for the amount of the license tax and given appropriate metal tag or plate signifying that the license has been issued.

(2) All taxes and fees so received and licenses issued by such agency shall be reported, on a form provided by the City Clerk, and all such taxes and fees shall be remitted, to the City Clerk within the period of time prescribed in the agreement between the City and the agency or, if no applicable period of time has been prescribed in such agreement, within seven (7) days after the end of the calendar month in which the taxes and fees shall have been received by the agency. (Ord. 3461, 1995.)

2-3-3. Same; license tax.

The amount of the license tax shall be as provided in Chapter 6, Article 6. License tax period for animals required to be licensed under the provisions of this Chapter shall expire on the last day of the month one year from the month of issuance, and shall become delinquent on the first day of the following month. Within ten (10) days after a mini-pig becomes seven (7) months, or a dog or cat becomes four (4) months of age, the license tax shall be due. Provided, such tax shall not be payable on animals while kept in dog kennels or pet shops that are subject to, and have paid, the occupation tax on dog kennels or, as the case may be, pet shops as provided in this Chapter. (Ord. 3567 § 2, 1997).

2-3-4. License, vaccination tags; attaching.

The owner of any animal licensed pursuant to the provisions of this Chapter shall attach to the collar or harness of the animal,

in a manner that is permanent and such that the tags can readily be seen by an officer of the City having authority to enforce this Chapter , the metal tag issued upon payment of the license tax and a valid vaccination tag. (Ord. 3461, 1995.)

2-3-5. Same; loss; replacement.

Upon satisfactory showing made by the owner or harborer of any animal that the original license tag or plate has been lost, and upon payment of the fee specified in Chapter 6, Article 6, the City Clerk shall issue a duplicate or new tag or plate for the balance of the year for which the tax has been paid. (Ord. 3461, 1995.)

2-3-6 to 2-3-8. Reserved.

(b) GENERAL PROVISIONS

2-3-9. Dogs and mini-pigs; at large; prohibited.

It shall be unlawful for the owner of any dog or mini-pig, whether the dog or mini-pig is harbored within or outside the corporate limits of the City, to cause or permit the dog or mini-pig to be or remain within the corporate limits except while within an enclosure, secured by tying or on a leash; provided, this

requirement shall not apply to a dog or mini-pig while the dog or mini-pig is on premises occupied by the owner or harborer of the dog or mini-pig. (Ord. 3461, 1995.)

2-3-10. Dogs; cats; mini-pigs; nuisance; when; impoundment.

(1) Any dog, cat or mini-pig:

(a) found outside premises occupied by the owner or harborer of the animal without a license tag or plate attached as required in this Article, or in the case of a dog, without a valid rabies vaccination tag attached as required in this Chapter, and the owner of which does not possess a valid rabies vaccination certificate in respect of the animal, or

(b) which damages, soils, defiles or defecates on private property other than that of the owner of the animal; damages, soils, defiles or defecates on a public park or other public place, except a street or alley; causes unsanitary, dangerous or offensive conditions; or molests, attacks or interferes with persons or animals, or chases vehicles, on any public street, alley or other public place, or any private property other than that of the owner of the animal, is hereby declared to be a public nuisance; provided, numbered subparagraph (1) above shall not apply to animals that are exempt from the requirements of this Article

In addition, any dog or mini-pig:

(c) which is neither confined within an enclosure, nor secured by tying, nor on a leash as required in this Article, or

(d) which by frequent or long continued making of noise, barking, whining or squealing disturbs the comfort or repose of any person in the vicinity, is hereby declared to be a public nuisance.

(2) Any dog, cat or mini-pig which is a public nuisance as deemed in this Chapter may be impounded. Provided, however, that if the nuisance is of the type described in numbered paragraph 1 (d) of this section, the dog or mini-pig may be impounded only if another complaint of such a nuisance on the premises was recorded in, and the existence of such earlier claimed nuisance was confirmed in writing by an investigating officer of the Police Department within the immediately preceding twelve (12) month period.

(3) The remedy provided in this section shall be cumulative, and not in lieu, of the remedies provided elsewhere in the Municipal Code. (Ord. 3461, 1995.)

2-3-11. Domestic animals, noise, sanitary disposition of feces.

(a) It shall be unlawful for any person to own within the corporate limits of the City any domestic animal that causes

noise continually to the disturbance of the peace of the neighborhood.

(b) It shall be unlawful for the owner or person having control of any animal to fail to remove and sanitarly dispose of feces or defecation deposited by said animal on any public park, street, alley, sidewalk or other public property, or on any private property other than that of the owner of the animal. (Ord. 3488, 1996.)

2-3-12. Cats; regulation; generally.

Except for section 2-3-9 and sections (c) and (d) of section 2-3-10 all of those provisions of this Chapter shall apply to cats, and those provisions applicable to owners of dogs shall also apply to owners of cats, unless such provision is clearly inapplicable to cats. (Ord. 3461, 1995.)

2-3-13. Mini-pigs; spaying or neutering.

Every mini-pig owned, kept or harbored within the City shall be spayed or neutered within thirty days after attaining the age of six months. (Ord. 3461, 1995.)

2-3-14. Mini-pigs; dangerous; other provisions applicable.

All of those provisions of Chapter 2, Article 4 dealing with dangerous dogs shall apply to mini-pigs and those provisions of said Chapter and Article applicable to owners of dogs shall also apply to owners of mini-pigs, unless such provision is clearly inapplicable to mini-pigs. (Ord. 3461, 1995.)

ARTICLE 4

DANGEROUS DOGS

Section

<u>2-4-1</u>	<u>Definitions.</u>
<u>2-4-2</u>	<u>Identification by City; notice; procedure to dispute.</u>
<u>2-4-3</u>	<u>Restraint required.</u>
<u>2-4-4</u>	<u>Confinement required; warning sign.</u>
<u>2-4-4.1</u>	<u>Microchip.</u>
<u>2-4-5</u>	<u>Prohibited acts.</u>
<u>2-4-6</u>	<u>Confiscation; when; costs.</u>
<u>2-4-7</u>	<u>Disposal by court order.</u>
<u>2-4-8</u>	<u>Violation; destruction of dog.</u>

2-4-1. Definitions.

Wherever used in this Article the following terms shall have the following meaning:

(1) "Dangerous dog" shall mean any dog which meets one of the following criteria:

- (a) is owned or harbored primarily or in part for the purpose of dog fighting;
- (b) is trained for dog fighting;
- (c) according to the records of the City has:
 - (i) killed or inflicted severe injury on a human being on public or private property; or
 - (ii) killed a domestic animal without provocation while the dog was off the owner's property; or
 - (iii) been previously determined to be a potentially dangerous dog by the City in accordance with procedures established elsewhere in this Article and the owner has received notice of such determination and such dog again aggressively bites, attacks, or endangers the safety of humans or domestic animals.

Notwithstanding the foregoing, a dog shall not be defined as a dangerous dog:

- (a) if the threat, any injury that is not a severe injury, or the damage was sustained by a person who:
 - (i) at the time, was committing a willful trespass as defined in the statutes of Nebraska or any other tort upon the property of the owner of the dog; or
 - (ii) at the time was tormenting, abusing or assaulting the dog; or
 - (iii) who has in the past been observed or reported to have tormented, abused or assaulted the dog; or
 - (iv) at the time was committing or attempting to commit a crime; or
- (b) if the dog is a trained dog assisting a police officer engaged in law enforcement duties.

(2) "Owner," in addition to the definition given the word elsewhere in this Chapter, shall include a person temporarily in possession of the dog at the request of the owner of the dog as shown on any microchip.

(3) "Potentially dangerous dog" shall mean (a) any dog that when unprovoked (i) inflicts a nonsevere injury on a human or injures a domestic animal either on public or private property or (ii) chases or approaches a person upon streets, sidewalks, or any private grounds other than where the dog resides, or any public grounds in a menacing fashion or apparent attitude of attack; (b) any specific dog with a known propensity, tendency,

or disposition to attack when unprovoked, to cause injury, or to threaten the safety of humans or domestic animals.

(4) "Severe injury" shall mean any physical injury that results in disfiguring lacerations requiring multiple sutures or cosmetic surgery or one or more broken bones or that creates a potential danger to the life or health of the victim.

(5) "Microchip or Microchipped." shall mean the device or implantation of the device, authorized by, and generally accepted by, the veterinary community, to be permanently implanted in the dog, allowing for permanent identification of the dog and the dog's owner, via scanning and reading of the microchip through the dog's skin, and hair or fur. (Ord. 3580, 1998; 3972, 2008.)

2-4-2. Identification by City; notice; procedure to dispute.

(1) A determination that a specific dog is a potentially dangerous dog shall be made by the Deputy City attorney who is principally charged with the responsibility of filing complaints against persons charged with the violation of any ordinance of the City. The owner of the dog shall be given written notice of such determination. Such written notice shall inform the owner that if the dog again aggressively bites, attacks, or endangers the safety of humans or domestic animals the City may determine the dog to be a dangerous dog and require it to be restrained as provided in the Scottsbluff Municipal Code.

(2) The City may, in its discretion, may determine that any dog which satisfies the definition of a dangerous dog as defined elsewhere in this Article, or any dog which has been determined to be potentially dangerous and such dog again aggressively bites, attacks, or endangers the safety of humans or domestic animals is a dangerous dog. Such determination shall be made by the Deputy City Attorney who is principally charged with the responsibility of filing complaints against persons charged with the violation of any ordinance of the City. The owner of the dog shall be given written notice of such determination. The notice shall be in writing and shall inform the owner:

(a) that the dog has been determined to be dangerous;

(b) that such dog is required to be restrained and confined as described in this Article;

(c) that if the owner disputes the identification of the dog as a dangerous dog, he or she may submit a written request for a hearing to the City Manager within five (5) working days after receipt of the written notification;

(d) that if no such hearing is requested that the identification of the dog as a dangerous dog shall be final and not subject to further review.

(3) The timely request for a hearing under this section shall stay the determination of the dog as a dangerous dog until a final decision is made by the City Manager. The hearing shall be

held before the City Manager. The burden of going forward with the evidence shall be on the city to demonstrate that the dog meets one of the criteria defined in this section. After such hearing the City Manager shall have the authority to affirm, reverse or modify the identification of the dog as a dangerous dog. The failure of the owner to request such a hearing shall result in the dog being declared a dangerous dog. (Ord. 3580 §2, 1998.)

2-4-3. Restraint required.

No owner of a dangerous dog shall permit the dog to go beyond the property of the owner unless such dog is securely muzzled and restrained with a chain having a minimum tensile strength of three hundred (300) pounds and not exceeding three (3) feet in length. (Ord. 3267 § 2 (part), 1993.)

2-4-4. Confinement required; warning sign.

While unattended on the owner's property, a dangerous dog shall be securely confined, in a humane manner, indoors or in a securely enclosed and locked pen or structure suitably designed to prevent the entry of young children and to prevent the dog from escaping. The pen or structure shall have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides shall be embedded into the ground. The pen or structure shall also protect the dog from the elements. The owner of a dangerous dog shall post a warning sign on the property where the dog is kept that is clearly visible and that informs persons that a dangerous dog is on the property. (Ord. 3267 § 2 (part), 1993.)

2-4-4.1. Microchip.

The owner, must as soon as reasonably possible, but no later than 14 days after the designation or confirmation of the Dangerous Dog designation, have the dog microchipped with an approved device, as defined by this Article. If the dog has been seized or impounded, the owner must arrange for the dog to be microchipped before or at the time of release from custody of animal control officer. The name of the microchip manufacturer and identification number of the microchip must be provided to the animal control authority. If the microchip is not implanted by the owner, it may be implanted by the Panhandle Humane Society or a qualified veterinarian under the direction of the Panhandle Humane Society or the animal control officer. In any case, all costs related to implantation of the microchip must be borne by the dog's owner and must be paid before the dog shall be released from impound. (Ord. 3972, 2008)

2-4-5. Prohibited acts.

No person shall:

(1) own or harbor any dog for the purpose of dog fighting, or train, torment, badger, bait or use any dog for the purpose of causing or encouraging that dog to unprovoked attacks upon human beings or domestic animals,

(2) possess with intent to sell, offer for sale, breed, or buy or attempt to buy, within the City any dangerous dog. (Ord. 3267 § 2 (part), 1993.)

2-4-6. Confiscation; when; costs.

Any dangerous dog may be immediately confiscated by an animal control officer if the owner is in violation of this Article. Any dangerous dog may also be confiscated if, within two weeks immediately preceding the date of confiscation, it was observed in a condition when it was not properly confined or restrained as provided in this Article. The owner shall be responsible for the reasonable costs incurred by the City for the care of a dangerous dog confiscated by an animal control officer or for the destruction of any dangerous dog if the action by the City is pursuant to law and if the owner violated this Article. Any such dog shall be retained by the City pending the order of an appropriate court. (Ord. 3267 § 2 (part), 1993.)

2-4-7. Disposal by court order.

In addition to any other penalty, a court may order the city to dispose of a dangerous dog in an expeditious and humane manner. (Ord. 3267 § 2 (part), 1993.)

2-4-8. Violations; destruction of dog.

The violation of any provision of this Article is a Class I violation. Provided, that any person violating this Article for the first time shall be required to pay a mandatory minimum fine of \$500.00 upon conviction. Any second or subsequent violation by the same person shall also require a mandatory minimum fine of \$500.00. If the person convicted has been previously convicted of a violation of this Article, or of any comparable city ordinance or municipal code provision in effect prior to the adoption of this Article, then, in addition to any mandatory minimum fine, the dog involved in the subsequent violation shall be immediately confiscated by the City, and thereafter destroyed in a humane and expeditious manner. (Ord. 3267, 1993; 3972, 2008)

ARTICLE 5

RELEASE OR DISPOSITION OF IMPOUNDED ANIMALS

Section

<u>2-5-1</u>	<u>Impoundment; by whom; notice.</u>
<u>2-5-2</u>	<u>Release of animal from impoundment.</u>
<u>2-5-3</u>	<u>Same; fees; amount; determination.</u>
<u>2-5-4</u>	<u>Same; dog; certificate of vaccination; agreement.</u>
<u>2-5-5</u>	<u>Wild animal or bird.</u>
<u>2-5-6</u>	<u>Disposition of impounded animals.</u>
<u>2-5-7</u>	<u>Same; sale.</u>
<u>2-5-8</u>	<u>Destruction of sick or injured animals.</u>

2-5-1. Impoundment; by whom; notice.

When an animal is authorized to be impounded by any provision of the Municipal Code, the impoundment may be carried out by any animal control officer, or by any employee of an impounding agency. Notice of impoundment of any animal, which shall note any significant marks of identification, shall be posted in a conspicuous public place at the pound as public notice of impoundment.

2-5-2. Release of animal from impoundment.

The owner of an animal impounded as provided in this Chapter, except as otherwise provided this Chapter, may claim and recover possession of the animal upon compliance with the requirements of this Article within three (3) days after commencement of the impoundment. A fee shall be paid before the release of the animal.

2-5-3. Same; fees; amount; determination.

The City Council shall establish by resolution or ordinance the amount of a fee to be paid prior to release of an animal to the owner or harbinger thereof. Such fee may be either a single amount plus a per diem amount for each day, or part thereof, during which the animal remains impounded or, alternatively, only a per diem amount for each such day, or part thereof. (Ord. 2897 § 1, 1985.)

2-5-4. Same; dog; certificate of vaccination; agreement.

In the case of a dog, if a valid certificate of rabies vaccination of the animal shall not be exhibited to the impounding agency, the dog shall not be released to the owner, unless the owner shall also sign an agreement with the City that such person will procure vaccination of the dog within seventy-two (72) hours after release of the dog from impoundment, and will submit to the impounding agency within 7 days after release of the animal from impoundment a valid certificate of such vaccination. (Ord. 2715 § 1 (part), 1982.)

2-5-5. Wild animal or bird.

A wild animal or bird which has been impounded shall not be released to the owner unless the owner can (1) furnish evidence that the owner holds any permit required by the State of Nebraska for keeping wild birds and animals in captivity, and (2) can provide assurance that the wild animals or bird will not remain or be kept within the City. (Ord. 3184 § 3 (part), 1991.)

2-5-6. Disposition of impounded animals.

If the owner does not comply with all the requirements of this Article within the time specified in this Article, then the animal shall be deemed an abandoned or stray animal, and the animal shall become the property of the City. Thereafter, if the City shall have contracted with the impounding agency for disposition of such animals, the animal shall be disposed of by such agency in accordance with the provisions of the contract between the City and the agency, which contract shall include a requirement that the agency take effective steps, to be specified in the contract, to accomplish the vaccination of any dog or cat, not vaccinated against rabies, which is to be released by the agency. Otherwise, the animal may be destroyed, released to an institution for research purposes, adopted, or sold. (Ord. 3611 § 2, 1999.)

2-5-7. Same; sale.

Any animal impounded pursuant to this Chapter may be sold. If a sale is to take place, the notice of impoundment required by this Chapter shall also include the time and place of the sale which shall be posted not less than five (5) days nor more than ten (10) days from the date of the notice. The animal shall be sold at auction to the highest bidder. The proceeds of the sale shall first be applied to all impoundment fees and costs of the sale with the balance paid to the City Treasurer within three (3) days of the sale. The owner of any animal sold shall be entitled to the surplus proceeds paid to the City Treasurer upon making satisfactory proof of ownership within one (1) year from the date of the sale. If no claim is made within this time, the City Treasurer shall transfer the proceeds to the General Fund. (Ord. 3184 § 1 (part), 1991.)

2-5-8. Destruction of sick or injured animals.

If an animal arrives at the impounding agency in such a sick or injured condition that, in the judgment of an animal control officer, agents of the impounding agency, or a licensed veterinarian, human compassion requires that the suffering be promptly ended, the animal may be immediately destroyed. Before

such animal is destroyed, the animal control officer shall make a reasonable effort to identify and notify the owner of the animal.

The destruction of an animal pursuant to this section shall be accomplished in such a manner as to cause the animal a minimum of pain and suffering. Prudent use of firearms to accomplish the destruction of an animal pursuant to the authority of this section shall not be considered a violation of the ordinances of the city. (Ord. 3522 §2, 1997.)

ARTICLE 6 RABIES CONTROL

Section

2-6-1 Dog suspected of rabies; confinement; fees; release; destruction.

2-6-2 Dog bitten by rabid animal; confinement; release; destruction.

2-6-3 Rabies; suspected animal; confinement; notification of police.

2-6-4 Same; observation; laboratory; tests; report.

2-6-1. Dog suspected of rabies; confinement; fees; release; destruction.

Any dog suspected by an animal control officer of being afflicted with rabies, or any dog that has bitten any person, causing an abrasion of the skin of the person, and for which a valid certificate or rabies vaccination is not exhibited, shall be impounded by such officer, under the supervision of a veterinarian or of a public health authority designated by the City Manager, provided, if after diligent inquiry for a period of twenty-four (24) hours, ownership of such dog or a valid certificate of rabies vaccination cannot be determined, such officer may cause such dog to be destroyed. Any dog that has bitten any person, causing an abrasion of the skin of the person, but for which a valid certificate of rabies vaccination is exhibited, shall be confined by the owner or some other responsible person, as required by any officer authorized to enforce this Article, for a period of not less than ten (10) days. At the expiration of such period, the dog shall be examined by a veterinarian. If no symptoms of rabies then are observed by the veterinarian, the dog, upon payment of fees and charges and,

as the case may be, execution of an agreement as provided in this section, may be released; otherwise, the dog shall be destroyed. Fees shall be paid and, if the dog has not been licensed or a valid certificate of rabies vaccination is not exhibited, the person to whom the dog is to be released shall enter into an agreement with the City as provided in this Chapter with respect to impounded dogs generally. In addition, such person shall either exhibit to the City Clerk a receipt from the veterinarian of payment in full of the charges of the veterinarian for his services in examining the dog, or pay to the City Clerk an amount equal to the reasonable value of such services as determined by the City Clerk. (Ord. 2695 § 1, 1981.)

2-6-2. Dog bitten by rabid animal; confinement; release; destruction.

If a dog is known to have been bitten by a rabid animal, and a valid certificate of vaccination of the dog against rabies is not exhibited, the dog shall be destroyed unless the owner agrees in writing with the City to confine the dog in strict isolation in a kennel under veterinary supervision for a period of not less than six (6) months. If a valid certificate of vaccination of the dog against rabies is exhibited, the dog nevertheless shall be destroyed:

(1) unless the dog is immediately revaccinated, a valid certificate of revaccination is exhibited, and the owner agrees in writing with the City immediately to confine the dog for a period of not less than thirty (30) days following the revaccination, or

(2) if the dog is not immediately revaccinated and a valid certificate of revaccination immediately exhibited, unless the owner agrees in writing with the City immediately to confine the dog in strict isolation in a kennel under veterinary supervision for a period of not less than six (6) months.

If the owner fails to comply with an agreement entered into as provided in this section, the dog shall be destroyed. (Ord. 1935 § 1 (part), 1972; Ord. 1116 § 2-212.01.)

2-6-3. Rabies; suspected animal; confinement; notification of Police.

Any person owning or having the charge of, or observing any animal which he shall know or suspect to be affected with the disease of rabies shall immediately confine such animal, if this can be done with reasonable safety, and shall at once give notice to an animal control officer of the whereabouts of such animal, and the reasons for believing it to be affected with rabies. (Ord. 1116 § 2-115.)

2-6-4. Same; observation; laboratory; tests; report.

Any animal suspected of having rabies shall be confined and kept under proper care and observation, and shall not be released until fourteen (14) days shall have elapsed from the beginning of such confinement. If such animal dies, suspected of having rabies, the City Manager or a City employee designated by the City Manager shall cause the head of such animal to be severed promptly and encased in a tight container, which container shall be packed in ice in such a manner that the ice shall not enter such container, and shall be sent to the Laboratory of the State Health Department at Lincoln, Nebraska, for examination and report. (Ord. 1116 § 2-116.)

ARTICLE 7

KENNELS, BOARDING KENNELS AND PET SHOPS

Section

<u>2-7-1</u>	<u>License; required.</u>
<u>2-7-2</u>	<u>Application; certificate of occupancy.</u>
<u>2-7-3</u>	<u>License term; occupation tax.</u>
<u>2-7-4</u>	<u>Regulations.</u>
<u>2-7-5</u>	<u>Inspection.</u>
<u>2-7-6</u>	<u>License revocation.</u>
<u>2-7-7</u>	<u>Violation; classification.</u>

2-7-1. License; required.

It shall be unlawful to operate a kennel, boarding kennel or pet shop within the City unless the operator holds a valid license for that purpose. (Ord. 3184 § 9 (part), 1991.)

2-7-2. Application; certificate of occupancy.

An application for a license to operate a kennel, boarding kennel or pet shop shall be made to the City Clerk. The application shall include (1) the name of the operator, (2) the location of the facility, (3) the kind or breed and number of domestic animals to be kept in the case of a kennel, (4) the capacity of the facility in the case of a boarding kennel, and (5) any additional information as may be required by the Clerk. No license shall be issued unless a certificate of occupancy has been issued by the Planning and Building Official which authorizes the intended use of the premises. (Ord. 3184 § 9 (part), 1991.)

2-7-3. License term; occupation tax.

All licenses shall remain in effect, unless revoked until the following April 30th. Prior to issuing or renewing a license, the

City Clerk shall collect an occupation tax as provided in Article 2 of Chapter 11 of the City Code. If there is no occupation tax category for "kennels" or "boarding kennels" in Article 2 of Chapter 11, then the occupation tax charged for "dog kennels" shall apply. (Ord. 3184 § 11 (part), 1991.)

2-7-4. Regulations.

The following rules and regulations are established for the operation of kennels, boarding kennels and pet shops:

(1) All domestic animals shall be kept clean and sanitary and in good physical condition at all times;

(2) All domestic animals shall be securely confined or on a leash;

(3) All facilities used for these purposes shall be kept in clean and sanitary condition and shall be free of decaying food and filth of any kind. Fresh food and water shall be provided daily;

(4) All kennels or confinement areas shall be cleaned and disinfected prior to placing a new or additional domestic animal into the kennel or confinement area and at least daily thereafter. The disinfectant shall be viricidal to distemper and parvo viruses;

(5) In addition to the above requirements, all facilities shall comply with the Regulations promulgated by the Secretary of the United States Department of Agriculture under the Federal Animal Welfare Act concerning "Specifications for the Humane Handling, Care, Treatment, and Transportation of Dogs and Cats", 9 CFR Part 3 (Subpart A), including amendments or any successor sections to these regulations. (Ord. 3184 § 11 (part), 1991.)

2-7-5. Inspection.

All City officials with powers to enforce this Article shall have the right to enter any premises licensed or used as a kennel, boarding kennel or pet shop for the purpose of conducting inspections and enforcing this Article. In the event that a violation of this Article is determined, all animals on the premises are subject to impoundment. (Ord. 3184 § 11 (part), 1991.)

2-7-6. License revocation.

Any license issued for kennel, boarding kennel or pet shop may be revoked by the Planning and Building Official whenever it is determined that the licensee is operating in violation of this Article. The licensee shall have the right to appeal the revocation to the Board of Adjustment in the same manner as provided for appeals of decisions of the Planning and Building Official. (Ord. 3184 § 11 (part), 1991.)

2-7-7. Violation; classification.

The violation of any provision of this Article is a Class I violation.

ARTICLE 8

VIOLATIONS

Section

2-8-1. Violation; classification.

The violation of any provision of this Chapter which is not otherwise classified is a Class II violation.